

NOTICE OF DECISION

December 4, 2015

Via Certified Mail

Greg McKenna
F & M Development Company, LLC
17786 Des Moines Memorial Dr.
Burien, WA 98148

**RE: Application No. ADM15-0001 – Estates at Hillside Gardens Senior Housing Project
Administrative Use Permit**

Dear Mr. McKenna:

Attached is the Community Development & Public Works Director's or designee's official decision regarding your Administrative Use Permit for a senior housing project within the C-1, Light Commercial zoning district. The Administrative Use Permit is **APPROVED** pursuant to the enclosed Staff Report.

Should you disagree with this decision, the decision may be appealed to the Hearing Examiner as identified within the attached code, ACC Section 18.70.050.

If you have any questions regarding the decision or process, please contact Thaniel Gouk, Senior Planner, at 253-804-5031 or tgouk@auburnwa.gov.

Sincerely,



Jeff Dixon
Planning Services Manager
Community Development & Public Works Department

JD/tg
CORR15-0264

Enclosures: ACC Section 14.13.010 – Administrative Appeals
ACC Section 18.70.050 – Administrative Appeals
Administrative Use Permit Application No. ADM15-0001 – Staff Report

APPEAL OF ADMINISTRATIVE DECISION

14.13.010 Administrative appeals.

Any administrative appeal of the project decision, combined with any environmental determinations, which are provided by the city, shall be filed within 14 days after the notice of the decision or after other notice that the decision has been made and is appealable. The city shall extend the appeal period for an additional seven days, if state or city rules adopted pursuant to Chapter 43.21C RCW allow public comment on a determination of nonsignificance issued as part of an appealable project permit decision. (Ord. 4835 § 1, 1996.)

18.70.050 Administrative appeals.

Appeals from any administrative decision made under this title may be appealed to the hearing examiner pursuant to Chapter 2.46 ACC.

A. Any person wishing to appeal an administrative decision shall first render in writing a request for an administrative decision from the appropriate city official. The city official shall issue in writing a decision within five working days of the written request.

B. If the requester seeks to appeal that decision to the hearing examiner, any such appeal shall be filed with the planning director within 14 days of mailing the city's written decision. The city shall extend the appeal period for an additional seven days for appeals that are accompanied by a final mitigated determination of nonsignificance or final EIS.

C. The planning director shall notify any other city official that may be affected by the appeal.

D. The appeal shall then be processed in the same manner as any other application for a hearing examiner decision pursuant to Chapter 2.46 ACC.

E. The examiner shall conduct a public hearing pursuant to ACC 18.70.040 and consider any facts pertinent to the appeal. The examiner may affirm the decision, remand for further proceedings, or reverse the decision if the decision is:

1. In violation of constitutional provisions;
2. In excess of the authority of the official;
3. Made upon an unlawful procedure;
4. Affected by other error of law;
5. Clearly erroneous; or
6. Arbitrary or capricious. (Ord. 4840 § 1, 1996; Ord. 4229 § 2, 1987.)

Any party of record who feels the administrative decision is based on error of procedure, fact or judgment, or the discovery of new evidence may file a written appeal with the Hearing Examiner no later than **December 18, 2015, by 5:00 pm** (14 days of mailing the City's written decision). Appeals should be addressed to: Hearing Examiner, c/o Community Development & Public Works Department, 25 West Main Street, Auburn, WA 98001-4998.

ADMINISTRATIVE USE PERMIT – DECISION
Estates at Hillside Gardens Senior Housing Project
ADM15-0001

I. GENERAL INFORMATION:

Issue Date: December 4, 2015

Application Date: June 5, 2015

Application No.: ADM15-0001

**Associated
Application Nos.:** MIS15-0005, SEP15-0015

Description: Administrative Use Permit for site preparation and construction of a “senior housing” use in the C-1, Light Commercial zoning district. The project consists of a 4-story 127-unit affordable senior housing project with approximately 141 surface parking stalls, a private courtyard / recreation area along the western property boundary, a small dog park near Howard Rd. in the northeast corner of the site, along with associated landscaping, walkways, and other pedestrian features. The site consists of two parcels totaling approximately 3.73 acres.

Location: Between Howard Rd. SE and ‘O’ Ct. SE; approximately 400 ft. northwest of the intersection of 21st St. SE and ‘R’ St. SE.

Parcel Numbers: King Co. 192105-9247 & 192105-9206

Zoning: C-1, Light Commercial

**Comprehensive
Plan Designation:** Light Commercial

Applicant: Greg McKenna
F & M Development Company, LLC
17786 Des Moines Memorial Dr.
Burien, WA 98148

Property Owner: (Same as Applicant)

Agent: Tres Kirkebo
Apex Engineering
2601 S. 35th St. Ste. 200
Tacoma, WA 98409

Other Approvals/

Permits Required: Architectural and Site Design Review (MIS15-0005), SEPA Environmental Review (SEP15-0015), Public Facility Extension (FAC) Approval, including grading, storm, utility extension plans, and right-of-way improvement plans.

Subject Property and Adjacent Property Comprehensive Plan Designation, Zoning, and Land Use:

	Comprehensive Plan Designation	Zoning Classification	Current Land Use
Project Site	Light Commercial	C-1 Light Commercial	Vacant
North	Light Commercial	C-1 Light Commercial	Skating Rink
South	Light Commercial and Single-Family Residential	C-1 Light Commercial, R-7 Residential	Single-Family Residences, Small Multi-Family Buildings, VRFA Fire Station 32
East	Light Commercial	C-3 Heavy Commercial	VRFA Fire Station 32
West	Single-Family Residential	R-7 Residential	Single-Family Residences

II. SEPA STATUS

A Final Determination of Non-Significance (City File No. SEP15-0015) was issued July 1, 2015 for this project. The appeal period ended July 30, 2015 with no appeal filed.

III. FINDINGS OF FACT:

1. Tres Kirkebo, Apex Engineering, Agent, on behalf of Greg McKenna, F & M Development Company, LLC, Applicant and Property Owner, submitted an application on June 5, 2015 for an Administrative Use Permit ("AUP") for a 127-unit low income senior housing project. The application was deemed complete for processing on June, 24, 2015.
2. The project site is located between Howard Rd. SE and 'O' Ct. SE; approximately 400 ft. northwest of the intersection of 21st St. SE and 'R' St. SE. King County Tax Assessor Parcel Numbers 192105-9247 & 192105-9206.
3. The Comprehensive Land Use designation for the property is "Light Commercial" and has a zoning designation of "C-1, Light Commercial", which permits senior housing upon issuance of an Administrative Use Permit (AUP).
4. The C-1, Light Commercial zone is the only zoning category that implements the Comprehensive Plan designation of "Light Commercial". The stated purpose of the C-1 zoning designation (ACC 18.23.020) is as follows:

"The C-1 zone is intended for lower intensity commercial adjacent to residential neighborhoods. This zone generally serves as a transition zone between higher and lower intensity land uses, providing retail and professional services. This zone

represents the primary commercial designation for small- to moderate-scale commercial activities compatible by having similar performance standards and should be developed in a manner which is consistent with and attracts pedestrian-oriented activities. This zone encourages leisure shopping and provides amenities conducive to attracting shoppers and pedestrians."

5. Per ACC 18.04.809, the land use of "senior housing" is defined as:

"...housing stock, whether rental or occupant-owned, that specifically caters to residents aged 55 years and older, either through age requirements or through the provision of specialized care, such as nursing or dietary and personal care. This definition shall include, at a minimum, all facilities that qualify as housing for older persons under the Fair Housing Act."

6. The Administrative Use Permit application and the Architectural and Site Design Review (a separate land use approval) are separate applications that have been reviewed concurrently. However the design review decision must be issued first per ACC 18.31.200(E)(2), which states:

"The decision on the administrative design review shall be issued prior to issuance of the building permits and/or issuance of discretionary land use approvals / permits."
[Emphasis added]

7. A Notice of Application (NOA) was issued for this project and the associated land use applications (MIS15-0005, ADM15-0001, SEP15-0015) on July 1, 2015 including notification by posting, publication, and mailing in accordance with ACC 14.07.040, "Methods of Providing Notice".
8. Two public comments were received in response to the NOA and City Staff provided the commenters with written responses. See Exhibits 9 and 10.
9. In response to citizen concerns, the construction noise hours will be limited to Monday through Friday, 7:00AM to 7:00PM and Saturday and Sunday from 9:00AM to 6:00PM. While this property is zoned for commercial use, the City will further limit construction noise hours, as if the property were zoned for residential use per ACC 8.28.010(B)(8)(b). Construction activity proposed for outside these hours would be considered on a case-by-case basis per ACC 8.28.010(B)(8). See Condition No. 3, below.
10. The contents of the various case files for this project (MIS15-0005, ADM15-0001, SEP15-0015) are hereby incorporated by reference and made part of the record of this Design Review decision. These contents include two comment letters submitted by neighboring property owners along with the City responses.

IV. CONCLUSIONS:

Pursuant to ACC 18.64.040, the Planning Director may issue an Administrative Use Permit only if the following findings of fact (criteria) are met. What follows are the criteria (*in italics*) and a Staff Analysis of how the proposal compares to the each criterion:

1. ACC 18.64.040(A)

The use will not have a substantively greater adverse effect on the health, safety or comfort of persons living or working in the area and will not be substantively more injurious, economically or otherwise, to property or improvements in the surrounding area than would any use generally permitted in the district. Among matters to be considered are traffic flow and control, access to and circulation within the property, off-street parking and loading, refuse and service area, utilities, screening and buffering, signs, yards and other open spaces, height, bulk, and location of structures, location of proposed open space uses, hours and manner of operation, and noise, lights, dust, odor, fumes and vibration;

STAFF ANALYSIS:

The proposed senior housing project will not have a substantively greater impact on the health, safety, or comfort of persons living or working in the area and the property or improvements in the neighborhood than any use generally permitted in the C-1 zoning district. Staff offers the following comparisons to support this Conclusion:

- Access points and traffic circulation. The project site as a “through lot” has frontage onto both Howard Rd. SE, a local non-residential street and ‘O’ Ct. SE, a local residential street, per the City’s Transportation Plan. Vehicular access to the site, however, will only be from Howard Rd. SE. One of the main reasons no vehicular access is proposed for ‘O’ Ct. SE is this approximately 625-ft., dead-end street, serves only a single-family neighborhood of 18 homes and a driveway connection would add an untenable increase in vehicle trips from current conditions. While no vehicle access is proposed to ‘O’ Ct. SE, pedestrian access from the project will be provided to both Howard Rd. SE and ‘O’ Ct. SE to meet City Comprehensive Plan policies for non-motorized circulation.

The project proposes a gated vehicular entry inset to the property from Howard Rd. SE. While not directly applicable, since the Project is not a subdivision, the Project will meet the requirements of ACC 18.31.140, “Gated Residential Subdivisions”. Specifically, the Project provides a sufficient vehicle turnaround outside of the right-of-way in front of the gate (ACC 18.31.140(F)(1)) and a gate constructed of wrought-iron or similar material (ACC 18.31.140(F)(2)) and adequate provisions for emergency access (ACC 18.31.140(F)(4)). And similar to these provisions, prior to issuance of a Certificate of Occupancy the Applicant will need to demonstrate compliance with ACC 18.31.140(F)(3) and (4) which require accessibility for solid waste collection, public utilities, emergency services, etc. through the vehicle gate. See Condition No. 4, below.

- Off-street parking and loading. The Project is proposing to provide 141 parking stalls for 127 senior housing units; a ratio of 1.1 parking stalls per housing unit. The City’s regulations do not provide a parking rate for “Senior housing” and since it is not listed in ACC Table 18.52.020 the City evaluated a combination of the Institute of Traffic Engineer’s (ITE) “Parking Generation Manual”, which indicates that peak parking demand for senior housing based on national studies is 0.67 parking stalls per dwelling unit. The City also evaluated other empirical data provided by the Applicant’s Traffic Consultant based on comparison to similar sites. This data was then reviewed by the City’s Traffic Engineer who in consultation with the Planning Director concurred that a ratio of 1.1 stalls is appropriate for this project.
- Screening of refuse, service areas, and utilities. Visual screening of service and utilitarian areas is proposed to be visually compatible with surroundings. An enclosure, similar in appearance to the exterior building materials is proposed for refuse (garbage, recycling, etc.) which will be consistent with ACC 18.50.040(C)(5)(c) and the Multi-

Family and Mixed-Use Design Standard 2.7.1-3. No above ground utilities are shown/proposed at this time; in the event above ground utilities are proposed and utilized, they are required to be screened in accordance with Multi-Family and Mixed-Use Design Standard 4.2.

- Screening, buffering, yards, and other open spaces. A buffer is provided between the project and the neighboring residential properties to the west and south by way of landscaping (trees, shrubs, etc.) and a solid 6-ft. cedar fence per City Code requirements and the Multi-Family and Mixed-Use Design Standards. The proposed landscaping plans show 27.6% of the site to be landscaped and include amenities such as a dog park, raised garden beds, walkways, etc.
- Signage. No signs have been proposed at this point; however, all signage will meet the requirements of zoning code Chapter 18.56 ACC "Signs". All subsequently proposed signage will be reviewed upon future permit submittals and is further addressed in the Staff Report for the Multi-Family and Mixed-Use Design Standards Decision (MIS15-0005).
- Height, bulk, and location of the structure. In addition to meeting the zoning code regulations, governing the location, height, and other development standards, the Multi-Family and Mixed-Use Design Standards further address setbacks, buffers, and the bulk of the building. Reference the Staff Report for MIS15-0005 which further details this projects compatibility with the surrounding neighborhood.
- Hours and manner of operation. While the hours of operation typically are not appropriate to residential uses, the Applicant has indicated that the senior housing facility will have on-site management 24-hours per day. This will assist in providing oversight of the operation and a contact person to aid in ensuring compatibility with neighboring properties.
- Noise, lights, dust, odor, fumes and vibration. As addressed in the SEPA Environmental Review decision (SEP15-0015), no offensive emissions are expected from this project. The emissions are expected to be similar to normal residential operations. Any outdoor lighting will be consistent with Chapter 18.55 ACC "Outdoor Lighting" and the Multi-Family & Mixed-Use Design Standard 4.5.

2. ACC 18.64.040(B)

The proposal is in accordance with the goals, policies and objectives of the Comprehensive Plan;

STAFF ANALYSIS:

The proposed project appropriately implements the "Light Commercial" Comprehensive Plan Land Use Designation and in turn, the C-1, Light Commercial zoning district.

The project and its design implements a number of policies in the Comprehensive Plan. Several goals, objectives, or policies within the Comprehensive Plan promote additional residential development while providing quality design practices in order to meet both community and Washington State Growth Management Act goals. The following excerpted goals, objectives, or policies relate to this project:

"GOAL 7

Residential Development

*To emphasize housing development at single family densities, in order to reestablish a mix of housing types appropriate for a family oriented community, **while recognizing the need and desire for both lower density and higher density housing appropriately located to meet the housing needs of all members of the community.*** "[Emphasis added]

"Objective 7.1

To establish a system of residential densities that accommodates a range of housing choices appropriate for the City."

"Policy LU-13

*The City should promote the provision, preservation and maintenance of adequate housing for the city's residents by **encouraging a balanced mix of housing types and values appropriate to the income levels and lifestyles of area residents.** Auburn has always been willing to accept its "fair share" of low and moderate cost housing opportunities. However, this has translated into a great disparity in Puget Sound communities with cities such as Auburn receiving more of these types of housing than other comparable communities. This has had impacts in terms of the costs of meeting human service needs as well as some poorly maintained multifamily properties which have caused a variety of problems. Auburn will work to insure that housing units are equitably distributed across the region in terms of both physical location and cost.* "[Emphasis added]

The proposal and its design contribute to the variety and quality of housing stock within the City to aid in serving all members of the community. In particular, the project is consistent with providing greater choices for senior living, and is well-supported by the proximity to the Auburn Senior Activity Center, which is located less than a mile to the north. The proposal fulfills the goal of providing a range of housing styles so that residents can "age in place" and remain in the community through life stages, not needing to go outside the community to find suitable housing.

"GOAL 12

Urban Development

To encourage redevelopment of underutilized areas to reduce sprawl and take full advantage of the City's investment in existing infrastructure."

"Objective 12.1

To facilitate infill development."

"Policy LU-117

***Identify areas for commercial infill development** and focus street and utility systems improvements to facilitate their development."* [Emphasis added]

The development of the site takes advantage of the City's investment in existing infrastructure in the vicinity. The project site has suitable infrastructure including, water, sewer, access, etc. and is proposing to redevelop an underutilized site located within the C-1, Light Commercial zone. The majority of the site has been undeveloped for many years since the bowling alley use was removed. The Project also is able to work with the existing site constraints of utility lines and easements bisecting the site that remain in place from a road right-of-way vacation.

The intent of the C-1 zone is to act as a transition between lower intensity uses (such as single-family residential) and higher intensity uses (such as automobile-oriented commercial) and this project successfully accomplishes this transition by providing a intermediate land use that steps down in intensity from street side commercial to single-family residential.

3. ACC 18.64.040(C)

The proposal complies with all requirements of this title;

STAFF ANALYSIS:

The proposed project complies with or is capable of complying with all the requirements of Title 18 ACC "Zoning". Specifically, conformance with the zoning development standards of the C1, Light Commercial zone (Chapter 18.23 ACC); parking (Chapter 18.52 ACC); landscaping (Chapter 18.50 ACC); Outdoor Lighting (Chapter 18.55 ACC), and all other zoning development standards are being met or will be met through review of subsequent permit applications. The Project's consistency with the zoning requirement for adherence to the Architectural and Site Design Standards will be satisfied through review and a separate decision on the project's relationship to the "Multi-Family and Mixed-Use Design Standards" in accordance with ACC 18.31.200.

By obtaining this Administrative Use Permit, the senior housing land use can be permitted in the C-1, Light Commercial zoning district.

4. ACC 18.64.040(D)

The proposal can be constructed and maintained so as to be harmonious and appropriate in design, character, and appearance with the existing or intended character of the general vicinity;

STAFF ANALYSIS:

The project as proposed, and as conditioned in the Architectural and Site Design Standards decision (MIS15-0005), generally conforms to the character of the surrounding neighborhood. Specifically, the site includes increased setbacks (the project proposes to meet minimums of 50 ft. as opposed to 25 ft.) from property lines abutting residential uses; extensive landscaping throughout the site including 10-ft. buffers to the adjacent residential uses; and, limiting vehicular access to only Howard Rd. SE, thereby not disrupting the existing single-family neighborhood that utilizes 'O' Ct. SE. The project complies with all other zoning development standards for setbacks, height, lot coverage, etc.

5. ACC 18.64.040(E)

The proposal will be supported by adequate public facilities and services and will not adversely affect the public infrastructure;

STAFF ANALYSIS

The project will be required to provide adequate public facilities such as water, sewer, access to public streets, etc. and will not adversely affect the public infrastructure. In addition, impact fees are collected by the City to ensure new developments pay for the public services or facilities they will impact.

6. ACC 18.64.040(F)

The proposal will not cause or create a public nuisance;

STAFF ANALYSIS

The proposal will not cause or create a public nuisance. The proposed project meets the requirements of the C-1, Light Commercial zoning district and the Architectural and Site Design Standards (Multi-Family and Mixed-Use Design Standards), as conditioned.

7. ACC 18.64.040(G)

The proposal's impacts can be appropriately mitigated through the application of conditions of approval, as applicable;

STAFF ANALYSIS

The project can be appropriately mitigated through the conditions of approval for this Administrative Use Permit, and the Architectural and Site Design Standards (Multi-Family and Mixed-Use Design Standards) decision.

V. DECISION

The Administrative Use Permit for "senior housing" in the C-1 zoning district is **APPROVED**, subject to the following conditions:

VI. CONDITIONS

1. The subsequent City construction approvals (such as, but not limited to, building and grading permits, public facility extension approval, etc.) must be generally consistent with the plans / documents provided as part of this Administrative Use Permit process and Decision. Any changes from the project description, exhibits, timing, or conditions must be reviewed and approved by the City of Auburn in advance for conformity with this approval. Any changes from these may require revision of this approval and / or environmental review.
2. Prior to the issuance of building permits and public facility extension (FAC) approvals, the Applicant shall demonstrate to the satisfaction of the Assistant Community Development Director that the conditions from the Architectural and Site Design Standards (Multi-Family and Mixed-Use Design Standards) Decision, City File No. MIS15-0005, will be met.
3. The more stringent construction noise hours applicable to residentially zoned property in accordance with ACC 8.28.010(B)(8)(b) will apply to this project. Construction noise hours shall be limited to Monday through Friday, 7:00AM to 7:00PM and Saturday and Sunday from 9:00AM to 6:00PM. Special request for construction activity outside these hours would be considered on a case-by-case basis per the administrative approval process provided in ACC 8.28.010(B)(8).
4. The City zoning code standards for private gates for residential developments shall apply to this project. Prior to issuance of a Certificate of Occupancy the Applicant shall prepare and provide a submittal for review and approval by the Assistant Public Works Director/City Engineer demonstrating compliance with ACC 18.31.140(F)(3) and (4). This submittal may be demonstrated on the public facility extension plans, specifically addressing:
 - (3) If the entry gate(s) obstructs access to solid waste collection, public water, sewer, or storm water utilities owned and maintained by the city, then a property

owner will be required to meet all easement requirements and be responsible for assuring that 24-hour access is provided to the city. The city's public works director shall determine a specified number of activation keys, activation devices or receive the access code to the gate which shall be distributed to the appropriate city departments. If the access method to the gate is subsequently modified, then the property owner shall notify the public works director and again provide to the public works director a specified number of activation keys, activation devices or the access code to the gate which shall be distributed to the appropriate city departments.

(4) Emergency Access Provisions. Gates shall have rapid entry key capabilities as approved by the fire marshal. The gate shall provide for 20 feet of clear passage for emergency access with a minimum clear height of not less than 16 feet six inches in accordance with WSDOT Design Manual Section 1120.04, "Bridge Site Design Elements," paragraph 5(a)1. Electrically operated gates shall have the capability to automatically default to the unlocked (open) position in the event of a power outage.

VII. EXHIBITS

The Applicant has submitted the following documents pursuant to this Administrative Use Permit application and these are hereby incorporated by reference:

1. Conceptual Site and Utility Plans, Apex Engineering, September 5, 2015.
2. Conceptual Landscaping and Irrigation Plans, Bradley Design Group, August 7, 2015.
3. Architectural Elevations, Ross Deckman & Associates, January 5, 2015.
4. Multi-Family and Mixed-Use Design Standards Compliance Summary, Ross Deckman & Associates, undated.
5. Response to City's June 24, 2015 Comment Letter, Ross Deckman & Associates, August 10, 2015.

In addition, the following documents produced by City Staff are hereby incorporated within the application:

6. Combined Notice of Application and Determination of Non-Significance, issued July 1, 2015.
7. Final Staff Evaluation for Environmental Checklist, July 1, 2015.
8. Notice of Complete Application and Request for Additional Information, sent June 24, 2015.
9. Comment Response Letter to Cheryl Creson, sent July 27, 2015.
10. Comment Response Letter to Julie Pederson, et al., sent July 23, 2015.

Prepared by: Thaniel Gouk
Thaniel Gouk, Senior Planner
Community Development & Public Works Dept.

12/4/2015
DATE

Reviewed by: Jeff Dixon
Jeff Dixon, Planning Services Manager
Community Development & Public Works Dept.

12-4-15
DATE